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through partnership

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July 29, 2022

Honorable Paul A. Crotty
United States District Court
Southern District of New York

Re: E.V. and L.V. vs. United Healthcare Oxford, et al.
Case No. 1:22-cv-02855-PAC

Dear Judge Crotty,

We are counsel to defendants Oxford Health Plans (NY), Inc., erroneously sued as United Healthcare Oxford, and United Behavioral Health (collectively, "United") in the above-captioned matter. We write jointly with counsel for Plaintiffs E.V. and L.V. (collectively, "Plaintiffs" and together with United, the "Parties") in accordance with Rules A and E of Your Honor's Individual Rules and Practices, for the purpose of jointly requesting that the Court: 1) adjourn the deadline for mediation, which is currently August 31, 2022; 2) adjourn the pretrial conference set for September 8, 2022; and 3) relieve the Parties of the requirement to submit a pretrial order, which is currently due August 17, 2022. *See* Dkt. 43 (setting forth each of these requirements in the Case Management Order).

With respect to the deadline for mediation, counsel for the Parties met on July 28, 2022 to discuss settlement and may continue their discussions in the coming days, but do not believe a mediation will be efficient or productive.

With respect to the pretrial order deadline and pretrial conference, because this is a matter brought under the Employee Retirement Income Security Act ("ERISA") and is likely to be resolved at summary judgment, the Parties agree that for purposes of efficiency the Court should rule on summary judgment before determining if trial is necessary in this matter. Counsel for the Parties have litigated many of these types of ERISA cases and those that reach the summary judgment stage have resolved on the Parties' cross-motions. *See, e.g., Christine S. v. Blue Cross Blue Shield of N.M.*, No. 2:18-cv-00874-JNP-DBP, 2021 U.S. Dist. LEXIS 199330, at *10 (D. Utah Oct. 14, 2021) (noting that in ERISA cases when both parties move for summary judgment, the parties have "effectively 'stipulated that no trial is necessary' and thus 'summary judgment is merely a vehicle for deciding the case.'"), citations omitted; *Kerry W. v. Anthem Blue Cross & Blue Shield*, 444 F. Supp. 3d 1305, 1308 (D. Utah 2020) (granting summary judgment on cross motions); *Lynn R. v. ValueOptions*, No. 2:15-cv-00362-RJS-PMW, 2017 U.S. Dist. LEXIS 134367 (D. Utah Aug. 22, 2017) (same); *see also, Munnelly v. Fordham Univ. Faculty & Admin. Hmo Ins. Plan*, 316 F. Supp. 3d 714 (S.D.N.Y. 2018) (same); *Doe v. Blue Cross Blue Shield of Mass., Inc.*, 2010 U.S. Dist. LEXIS 37153 (S.D.N.Y. Apr. 12, 2010) (same).

Summary judgment briefing begins on October 14, 2022 with the final brief due on November 11, 2022. The Parties propose that they write the Court within 15 days of the Court's order on summary judgment to propose a pretrial schedule and to request a pretrial conference, if those remain necessary.

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This is the Parties' first request for the relief sought in this letter. These requests will affect no other scheduled dates.

Sincerely,

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cc: All counsel of record (via ECF)

The Court grants the parties' requests and hereby orders the following:

- (1) the deadline for mediation shall be adjourned;
- (2) the pretrial conference set for September 8, 2022 shall be adjourned; and
- (3) the parties shall be relieved of the requirement to submit a pretrial order.

The parties are reminded that motions are due by October 14, 2022. The Court further adopts the parties' proposal that they submit a proposed pretrial schedule and a request for a pretrial conference to this Court within 15 days of the Court's order on summary judgment, if those remain necessary.

SO ORDERED



August 12, 2022